IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE D.S.R.VARMA

WRIT PETITION NO : 4731 of 2005

Between:

Md.Shareef, S/o.Md.Ismail, R/o.D.No.16-8-913/1, Race Course Road, Old Malakpet, Hyderabad.

..... PETITIONER

AND

Assistant Divisional Engineer, Central Power Distribution Company of A.P.ltd., D-XXII C-VIII, Chanchalguda, Hyderabad.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any writ, order or direction preferably one in the nature of writ of Mandamus, declaring the impugned provisional assessment sought to be made vide Lr.No.ADE/D-XXII-C-8 dated 30/01/04 on the file of the respondent herein as unfair, illegal, arbitrary, void and without jurisdiction and violative of principles of natural justice and unsustainable and pass such other orders as may be just in the circumstances of the case.

Counsel for the Petitioner: SMT.P.VIJAYA KUMARI

Counsel for the Respondent: MR.V.AJAYAKUMAR

The Court at the stage of admission made the following :

***ORAL ORDER*:**

Heard the learned counsel for the petitioner and the learned standing counsel for the respondent. Perused the material placed before me.

Provisional assessment made by the respondent on the ground of pilferage is under challenge in this writ petition.

It appears that power supply to the shop of the petitioner was disconnected by the impugned notice dated 30-1-2004. Further, the petitioner was informed that on deposit of Rs.19,829.50 ps only, the power supply would be restored.

The learned counsel for the petitioner placed reliance on a common judgment dated 11-3-2004, rendered by a Division Bench of this Court in W.A. Nos. 452 and 477 of 2004, wherein it was observed that provisional assessment is in the nature of show cause notice against which the consumer is entitled to have an opportunity of hearing before passing final order of assessment by the concerned authority. While observing so, the Division Bench held that there is no authority or power to the respondents to discontinue or disconnect

the electricity supply.

Having regard to the observations made by the Division Bench of this Court in similar circumstances, I hereby direct the respondents to restore the power supply to the shop of the petitioner forthwith, without insisting payment of any amount till further orders.

With the above direction, the writ petition is disposed of at the stage of admission. No costs.

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kvsn 10-03-2005

To

1. Assistant Divisional Engineer, Central Power Distribution Company of A.P.ltd., D-XXII C-VIII, Chanchalguda, Hyderabad.

2. Two CD copies.